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EXAMINER

PHAM, HUNG Q

ART UNIT	PAPER NUMBER
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2168

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/712,743	Applicant(s) SANTOSUOSSO, JOHN MATTHEW	
	Examiner HUNG Q. PHAM	Art Unit 2168	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-8,11,12,14,15,17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-8,11,12,14,15,17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/17/2007 has been entered.

Response to Arguments

- *Claim Rejections - 35 USC § 112*

The previous rejection of claims 1 and 11 under 35 U.S.C. § 112, second paragraph, has been withdrawn in view of the amendment of these claims.

The previous rejection of claim 14 is sustained because claim 14 has not been amended with respect to the rejection under 35 U.S.C. § 112, second paragraph.

- *Claim Rejections - 35 USC § 102*

Applicants' arguments with respect to the rejection of claims 1, 11 and 14 under 35 U.S.C. § 102 have been fully considered but they are not persuasive.

As argued by applicants,

(1) At page 12 with respect to claim 1:

Independent claim 1, as amended, now more clearly recites features of the invention, including checking for an expired timeout value for the query and for the requested monitor including at least one of said user defined function (UDF) and said trigger; and halting the execution of the query responsive to an identified expired timeout value. These limitations as recited in independent claim 1, as amended, are not disclosed or suggested by the teachings of Brownbridge.

- (2) At page 13 with respect to claim 11:

Independent claim 11, as amended, recites responsive to said event to execute query performing said execute query routine includes the steps of identifying an expired timeout value for said trigger or said UDF, halting the execution of the query. For prior art to anticipate under §102 it has to meet every element of the claimed invention; independent claim 11, as amended, clearly distinguishes over Brownbridge.

...

... The reference of record including Brownbridge do not teach, enable, or suggest a query governor program including a SQL processor program as now recited in independent claim 11, as amended. Thus, independent claim 11, as amended, is patentable.

- (3) At page 15 with respect to claim 14:

Independent claim 14, as amended, is patentable for the same reasons as independent claim 1. None of the cited references including Brownbridge suggest starting a monitor for an identified timeout value for the query and starting a monitor for an identified timeout value for the requested monitor including said at least one of said user defined function (UDF) and said trigger, and halting the execution of the query responsive to an identified expired timeout value. These limitations as recited in independent claim 14, as amended, are not disclosed or suggested by Brownbridge. Thus, independent claim 14, as amended, is patentable.

- (4) At page 15 with respect to dependent claims 3-8, 12, 15 and 17-18:

Dependent claims 3-8, 12, 15, and 17-18 respectively depend from patentable claims 1, 11, and 14, further defining the invention. Each of the dependent claims 3-8, 12, 15, and 17-18, as amended, is likewise patentable.

Examiner respectfully disagrees.

- (1) As in Page 9, a screen shot of Query Governor is illustrated.

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Options

General **Query Governor** **Sheet Format** **Default Formats** **Advanced** **EUL**

Summary Data
Summary data can be set up by your administrator to improve performance.
When do you want to use summary data?

☐ Always, when available

☒ When summary data is more recent than: 69 days

Query Governor

☒ Warn me if predicted query time exceeds: 1:06 mins:secs

☒ Prevent queries from running longer than: 30:00 mins:secs

☒ Limit retrieved query data to: 10000 rows

☐ Retrieve data incrementally in groups of: 1000 rows

☐ Cancel list-of-values retrieval after: 1:01 mins:secs

Help OK Cancel

As shown in the screen shot above, a time out value, e.g. 1:06 in MM:SS format, for the requested Query Governor, wherein the requested Query Governor include a user defined function, e.g., "Warn me if predicted query time exceeds". As further disclosed by Brownbridge, a message will appear if the estimated completion time exceeds the specified period by a user (Brownbridge, Page 10, Warn me if predicted query time exceeds), Thus, in order to appear a message, an expired timeout value for the query, e.g., estimated completion time, and a timeout value of the requested monitor, e.g., 1:06 in MM:SS format, is checked, wherein the requested monitor including at least one of said user defined function, e.g., "Warn me if predicted query time exceeds".

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(2) The Query Governor is SQL processor program. As disclosed by Brownbridge at Page 10, the option "Prevent queries from running longer than" is selected to limit the time a query runs before it is cancelled. A message informs the user if the query exceeds the set time, then Discoverer cancels the query. Thus, *responsive to a query as event to execute query*, the query as *execute query routine is performed*. During the performance of the query, the set time of "Prevent queries from running longer than" as *an expired timeout value for said UDF is identified* to determine if the query exceeds the set time. If the query exceeds the set time, *the execution of the query is halted*.

(3) As discussed above, in order to appear a message, *an expired timeout value for the query*, e.g., estimated completion time, and *a timeout value of the requested monitor*, e.g., 1:06 in MM:SS format, is checked, wherein *the requested monitor including at least one of said user defined function*, e.g., "Warn me if predicted query time exceeds". During the performance of the query, the set time of "Prevent queries from running longer than" as *an expired timeout value for said UDF is identified* to determine if the query exceeds the set time. If the query exceeds the set time, *the execution of the query is halted*.

(4) Dependent claims 3-8, 12, 15, 17 and 18 are unpatentable because of the reasons as discussed above.

In light of the foregoing arguments, the 35 U.S.C. § 102 is hereby sustained.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As in claim 1, the clause *the requested monitor* at lines 6, 7, 12, 17... references to at least two monitors being requested, e.g., one at line 5 and another one at line 6. It is unclear which one is being referenced.

As in claim 14,

the clause *the requested monitor* at lines 9, 10, 15... references to at least two monitors being requested, e.g., one at line 5 and another one at line 6. It is unclear which one is being referenced;

the clause *the query* at lines 14, 17, 18, 19, 22... references to other items in claim. It is unclear what item is being referenced.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 3-8, 11, 12, 14, 15, 17 and 18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1, 3-8, 11, 12, 14, 15, 17 and 18 are directed to a method, apparatus and program for *implementing enhanced query governor functions*. This claimed subject matter lacks a practical application of a judicial exception (law of nature, abstract idea, naturally occurring article/phenomenon) since it fails to produce a tangible result. Specifically, the claimed subject matter does not produce a tangible result because the claimed subject matter fails to produce a result that is limited to having real world value rather than a result that may be interpreted to be abstract in nature as, for example, a thought, a computation, or manipulated data. More specifically, the claimed subject matter provides for *halting the execution of the query responsive to an identified expired timeout value*. This produced result remains in the abstract and, thus, fails to achieve the required status of having real world value.

Claims 11 and 12 are directed to an apparatus comprising software per se. Software per se is not a series of steps or acts and thus is not a process. Software per se is not a physical article or object and as such is not a machine or manufacture. Software per se is not a combination of substances and therefore is not a composition of matter. Software per se is not one of the four categories of invention and therefore claims 11 and 12 are non-statutory.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 6, 8, 11-15, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Brownbridge et al. [Oracle Discoverer™ 4i Plus].

Regarding claims 1 and 14, Brownbridge teaches a method and program *for implementing enhanced query governor functions* comprising the steps of:

monitoring events (As shown at Page 9, *events*, e.g., query time, queries running time..., are *monitored* by Query Governor);

responsive to an event to modify attributes, performing a modify attributes routine, said modify attributes routine including checking for a monitor being requested (As disclosed at Page 8 and the screen shot at Page 9, the Discoverer Administrator may determine that queries cannot run longer than 30 minutes. If a user sets the limit for 60 minutes, the numbers will change back to 30 automatically. This technique indicates the step of *performing a modify attributes routine*, e.g., checking to see if the user-defined time out is above a threshold determined by Discoverer Administrator, *responsive to an event to modify attributes*, e.g., setting the limit for 60 minutes by a user, wherein *modify attributes routine including checking for a monitor being requested*, e.g., checking to see if the user-defined time out is above a threshold determined by Discoverer Administrator with respect to "Prevent queries from running longer than");

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and responsive to a monitor being requested, setting a timeout value for the requested monitor
(a monitor is requested by a user by checking the box under Query Governor, e.g., checking the box of "Prevent queries from running longer than" (The screenshot of Page 9));

the requested monitor including at least one of a user defined function (UDF) and a trigger (the requested monitor including a user defined function (UDF), e.g., "Prevent queries from running longer than" (The screenshot of Page 9));

responsive to an event to execute query, performing an execute query routine (As disclosed at Page 10, a query requests data for a worksheet is performed);

said execute query routine including: checking for a timeout value for the query and checking for a timeout value of the requested monitor including at least one of said user defined function (UDF) and said trigger (As shown in the screen shot at Page 9, a time out value, e.g. 1:06 in MM:SS format, for the requested Query Governor, wherein the requested Query Governor include a user defined function, e.g., "Warn me if predicted query time exceeds". As further disclosed by Brownbridge, a message will appear if the estimated completion time exceeds the specified period by a user (Brownbridge, Page 10, Warn me if predicted query time exceeds), Thus, in order to appear a message, an expired timeout value for the query, e.g., estimated completion time, and a timeout value of the requested monitor, e.g., 1:06 in MM:SS format, is checked, wherein the requested monitor including at least one of said user defined function, e.g., "Warn me if predicted query time exceeds");

responsive to identifying a timeout value for the query, resetting an execution time for the query (As disclosed at Page 8 and the screen shot at Page 9, the Discoverer Administrator may determine that queries cannot run longer than 30 minutes. If a user sets the limit for 60 minutes, the numbers will change back to 30 automatically. Thus, in response to identifying a timeout value for the query, e.g., 60 minutes is set in "Prevent queries from running longer than", an execution time for the query will be reset, e.g., 30 minutes);

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starting a monitor for an identified timeout value for the query and stating a monitor for an identified timeout value of the requested monitor including said at least one of said user defined function (UDF) and said trigger (By selecting "OK" box as shown in screenshot of Page 9 and further disclosed at page 10, "Warn me if predicted query time exceeds", a monitor is started, e.g., "Warn me if predicted query time exceeds", for an identified timeout value for the query, e.g., the estimated completion time, and for an identified timeout value of the requested monitor, e.g., 1:06 as specified in the screen shot of FIG. 9. The requested includes at least one of said user defined function (UDF), e.g., "Warn me if predicted query time exceeds");

starting the execution of the query (Page 28, Queries);

monitoring the execution of predefined events during the execution of the query (predefined events during the execution of the query as details of Query Governor after setting the parameters by a user as shown in screenshot of Page 9, e.g., "Warn me if predicted query time exceeds" and "Prevent queries from running longer than", are monitored during the execution of the query);

said predefined events including a begin or end of processing of said requested monitor

including at least one of said a trigger and said a user defined function (UDF) (predefined events

including a begin of trigger and user defined function as shown in screenshot of Page 9);

periodically checking execution status of the query (By selecting OK box, the status of the query is periodically checked);

responsive to identifying the query is executing, checking for an expired timeout value for the query and for the requested monitor including at least one of said user defined function (UDF) and said trigger; and halting the execution of the query responsive to an identified expired timeout value (The Query Governor responsive to execute the query of requesting data for a worksheet. In response to the request, if the query exceeds the set time, a warning message is sent to the user, then the query is canceled (Page 10, "Prevent queries from running longer than"))).

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Regarding claim 11, Brownbridge teaches an apparatus *for implementing enhanced query governor functions* comprising:

a query governor program including a SQL processor program, said SQL processor program for monitoring events (As shown at Page 9, *events*, e.g., query time, queries running time..., are monitored by Query Governor as *a query governor program including a SQL processor program*);

SQL processor program

responsive to an event to modify attributes, performing a modify attributes routine (As disclosed at Page 8 and the screen shot at Page 9, the Discoverer Administrator may determine that queries cannot run longer than 30 minutes. If a user sets the limit for 60 minutes, the numbers will change back to 30 automatically. This technique indicates the step of *performing a modify attributes routine*, e.g., checking to see if the user-defined time out is above a threshold determined by Discoverer Administrator, *responsive to an event to modify attributes*, e.g., setting the limit for 60 minutes by a user);

responsive to an event to execute query, performing an execute query routine (As disclosed at Page 10, a query requests data for a worksheet is performed);

said modify attributes routine including checking for a monitor being requested and responsive to a monitor being requested, setting a timeout value for the requested monitor (As discussed above with respect to the step of *performing a modify attributes routine*, *modify attributes routine including checking for a monitor being requested*, e.g., checking to see if the user-defined time out is above a threshold determined by Discoverer Administrator, *and responsive to a monitor being requested*, e.g., "Prevent queries from running longer than" in the screen shot of Page 9, *setting a timeout value for the requested monitor*, e.g., changing back to 30 minutes if 60 minutes is defined or keeping the setting if the defined timeout is less than 30 minutes);

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the requested monitor including at least one of a user defined function (UDF) and a trigger monitor (the requested monitor including a user defined function (UDF), e.g., "Prevent queries from running longer than" as in the screenshot of Page 9);

said execute query routine including data retrieval processing, and at least one of user defined function (UDF) monitor and said trigger monitor (The screenshot of Page 9));

said query governor program including the request monitor including said at least one of said user defined function (UDF) monitor and said trigger monitor (query governor program as in the screen shot of Page 9 including the request monitor including said at least one of said user defined function (UDF) monitor, e.g., "Prevent queries from running longer than");

the requested monitor including said UDF monitor and said trigger monitor monitoring the execution of predefined events during the execution of the query (As disclosed at Page 10, a warning message informs the user if the query exceeds the set time according to "Prevent queries from running longer than");

said predefined events including a begin or end of processing of said requested monitor including at least one of said a trigger and said a user defined function (UDF) (predefined events including a begin of trigger and user defined function as shown in screenshot of Page 9);

said SQL processor program responsive to said event to execute query performing said execute query routine includes the steps of identifying an expired timeout value for said trigger or said UDF; and halting the execution of the query (The Query Governor responsive to execute the query of requesting data for a worksheet, the request data is performed. In response to the request, if the query exceeds the set time, a warning message is sent to the user, then the query is canceled (Page 10, "Prevent queries from running longer than"))).

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Regarding claims 5 and 17, Brownbridge teaches all of the claimed subject matter as discussed above with respect to claims 1 and 14, Brownbridge further discloses the step of *recording empirical data for said trigger, and said user defined function (UDF)* (The screenshot of Page 9).

Regarding claim 6, Brownbridge teaches all of the claimed subject matter as discussed above with respect to claim 5, Brownbridge further discloses the step of *checking to determine based upon said recorded empirical data whether in most likelihood that the query can finish within timeout values for said trigger and said user defined function (UDF), and responsive to determining in most likelihood the query will not finish within said timeout values, execution of the query is not started* (Page 10).

Regarding claims 8 and 15, Brownbridge teaches all of the claimed subject matter as discussed above with respect to claims 1 and 14, Brownbridge further discloses the step of *changing query attributes* (The screenshot of Page 9).

Regarding claims 12 and 18, Brownbridge teaches all of the claimed subject matter as discussed above with respect to claims 11 and 17, Brownbridge further discloses the step of *checking to determine based upon said recorded empirical data whether in most likelihood that the query can finish within timeout values for said trigger and said user defined function (UDF), and only responsive to determining in most likelihood the query can finish within said timeout values, starting execution of the query* (Pages 9-10).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brownbridge et al. [Oracle Discoverer™ 4i Plus] in view of Ramasamy et al. [USP 6,944,614 B1].

Regarding claim 3, Brownbridge teaches all of the claimed subject matter as discussed above with respect to claim 1, but does not explicitly teach the step of *recording each said trigger event start time and stop time*.

Ramasamy teaches a method for monitoring an executed query (Ramasamy, Abstract) and further discloses the step of *recording start time and stop time* for each operator's thread (Ramasamy, Col. 8, Lines 9-28).

In order to send the message as disclosed at page 10 of Brownbridge, recording the start and stop time of the query is a must in order to trigger the event.

It would have been obvious for one of ordinary skill in the art at the time the invention was made to include the step of recording start and stop time in order to implement the trigger.

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Regarding claim 4, Brownbridge teaches all of the claimed subject matter as discussed above with respect to claim 1, but does not explicitly teach the step of recording each said user defined function (UDF) start time and stop time.

Ramasamy teaches a method for monitoring an executed query (Ramasamy, Abstract) and further discloses the step of *recording start time and stop time* for each operator's thread (Ramasamy, Col. 8, Lines 9-28).

In order to send the message as disclosed at page 10 of Brownbridge, recording the start and stop time of the query is a must in order to trigger the event.

It would have been obvious for one of ordinary skill in the art at the time the invention was made to include the step of recording start and stop time in order to implement the trigger.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brownbridge et al. [Oracle Discoverer™ 4i Plus] in view of Rankins et al. [Microsoft SQL Server 2000 unleashed, Second Edition].

Regarding claim 7, Brownbridge teaches all of the claimed subject matter as discussed above with respect to claim 1, but does not explicitly teach the step of *setting return code values for said identified expired timeout value for processing either said UDF or said trigger*.

Rankins teaches a return code value is set for calling a subroutine or function when detecting an error (Rankins, Pages 16-18).

A return code values for calling a subroutine as taught by Rankins is a must for Brownbridge method in order to trigger the message of function "Warn me if predicted query time exceeds".

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It would have been obvious for one of ordinary skill in the art at the time the invention was made to include the step of setting a return code in order to return the message to the user.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNG Q. PHAM whose telephone number is 571-272-4040. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TIM T. VO can be reached on 571-272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


HUNG Q PHAM
Examiner
Art Unit 2168

February 12, 2007